



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 17-228; FCC 17-123]

Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on proposals to provide relief to non-nationwide service providers by revising the Commission's wireless hearing aid compatibility reporting requirements.

DATES: Interested parties may file comments on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments on or before **[INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments and reply comments on or before the dates indicated in the DATES section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). All filings related to this document shall refer to WT Docket No. 17-228.

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, Annapolis, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection modifications proposed herein should be submitted to the Commission via email to PRA@fcc.gov and to Nicholas A. Fraser, Office of Management and Budget, via email to Nicholas_A._Fraser@omb.eop.gov or via fax at 202-395-5167.

FOR FURTHER INFORMATION CONTACT: For further information on this proceeding, contact Michael Rowan, Wireless Telecommunications Bureau, (202) 418-1883, e-mail Michael.Rowan@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rulemaking, in WT Docket No. 17-228; FCC 17-123, adopted September 26, 2017, and released on September 27, 2017. This document is available for download at http://fjallfoss.fcc.gov/edocs_public/. The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

I. DISCUSSION

1. The Commission seeks comment on whether to exempt a service provider that is not a Tier I carrier (Non-Tier I Service Provider) from the annual FCC Form 655 reporting requirements or otherwise to modify these requirements, while maintaining the reporting requirements for Tier I carriers and all handset manufacturers.

2. The Commission seeks comment on whether the annual reporting

requirements for Non-Tier I Service Providers are still necessary to achieve the Commission's objectives for adopting the reporting requirements and whether the burden of complying with these reporting requirements for Non-Tier I Service Providers outweighs the associated benefits. The Commission, in adopting these reporting requirements, stated that its reporting requirements serve several purposes: providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment. The Commission asks commenters to address the contribution of Non-Tier I Service Provider reports to these objectives and whether these reports are still necessary to achieve these objectives.

3. For example, the Commission seeks comment on the extent to which consumers rely on Non-Tier I Service Providers' annual reports for information about handset models. The Commission notes that the Commission's in-store testing and web site posting requirements will continue to apply if the Commission adopts an exemption from the Form 655 reporting requirements. The Commission seeks comment on whether consumers will have sufficient information from service providers' ongoing compliance with these requirements. The Commission also seeks comment on whether the continued availability of Tier I carrier reports suggests that, in the aggregate, the informational benefit to consumers of Non-Tier I Service Provider reports will be minimal or otherwise supports exempting them from reporting requirements. Similarly, are consumers informed to a greater degree about the availability of handset models in the marketplace from the reports of device manufacturers?

4. The Commission also seeks comment on whether consumers can obtain information from other third-party resources and whether they may be better or more

accessible sources of information to the public about handset offerings than the status reports filed with the Commission. For instance, the Global Accessibility Reporting Initiative (GARI) is a project run by the Mobile & Wireless Forum that is designed to help consumers learn more about the accessibility features of mobile devices and to help them identify devices with the features that may assist them with their particular needs. Are these information sources sufficient? If not, commenters should provide specific examples of the information these sources are missing.

5. With regard to monitoring the compliance of Non-Tier I Service Providers with the Commission's rules, the Commission seeks comment on whether the Commission should rely on its informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other requirements. Given that these annual reports in recent years have reflected near universal compliance with the requirements, is detailed reporting from every small and regional service provider still justified to address any isolated instances of non-compliance by such providers? Would eliminating or modifying the reporting requirements help these service providers save costs without an appreciable negative impact on the Commission's enforcement objectives? For example, the Commission notes that the Commission already relies on the informal complaint process rather than reporting to monitor compliance with other hearing aid compatibility obligations, such as in-store testing requirements. The Commission solicits comment on whether our enforcement objectives can be met by continuing to monitor the reports from device manufacturers and Tier I carriers.

6. The Commission seeks comment on whether Non-Tier I Service Provider

reporting is necessary to meet the Commission's objective of gauging the overall state of access to wireless hearing aid-compatible handset models. Is it sufficient if the Commission only receives reports from manufacturers and Tier I carriers? For instance, the Commission has previously recognized that Non-Tier I Service Providers have difficulty obtaining the newest hearing aid-compatible handsets in comparison to the Tier I carriers, and the Commission seeks comment on whether the majority of newer compatible handset models on the market is reflected in Tier I carriers' status reports. Do Tier I carrier reports better reflect the feasibility of achieving hearing aid compatibility in handsets than the reports of Non-Tier I Service Providers? Additionally, the Commission in 2010 noted the "growing distribution of wireless handsets through channels other than service providers." To what extent has this development reduced the importance of service provider reports in assessing access to compatible models? To monitor the state of hearing aid-compatible handset availability and technologies, the Commission also seeks comment on whether the Commission can rely on supplemental submissions for this type of information from stakeholders in open docket WT Docket No. 15-285.

7. The Commission also seeks comment on the burdens on Non-Tier I Service Providers of complying with the Form 655 reporting requirements. Do special circumstances make annual status reporting particularly burdensome for small, rural, and regional carriers? If so, what are these circumstances and what is the burden or cost that results from them?¹ The Commission asks commenters to explain all such burdens in detail, including the costs in labor and wages of complying with the reporting requirements.

¹ To the extent parties support an alternative definition or size standard for a reporting exemption, we seek comment on the burdens applicable to providers meeting that definition or standard.

8. The Commission seeks comment on all potential cost savings and other potential benefits of our proposed reporting exemption. The FCC Form 655 Instructions state “each response to this collection of information will take, on average, two and a half (2.5) hours.” Is this estimate accurate? Are there resources or measures not accounted for in this estimate that are needed for small providers specifically to meet the reporting requirements? Please explain all such burdens in detail. Because all non-reporting requirements under section 20.19 will continue to apply to Non-Tier I Service Providers in the event the Commission adopts an exemption from the reporting requirements, including the obligation to offer a sufficient number of hearing aid-compatible handset models to meet the applicable benchmarks, parties should be careful to distinguish burdens that will continue to be incurred in complying with our section 20.19 rules, even in the absence of reporting requirements, such as burdens related to ascertaining the hearing aid compatibility ratings of various handset models offered to meet deployment benchmarks.

9. Alternative Size Standard. The Commission seeks comment on whether the scope of any exemption should be based on an alternative definition of carrier or size standard. Section 20.19 defines a Tier I carrier as “a CMRS provider that offers such service nationwide.” Accordingly, a Non-Tier I Service Provider exemption would cover all non-nationwide providers, including small and regional providers. Instead of exempting all non-nationwide service providers, the scope of the exemption could be based on the number of subscribers and apply if a service provider offers service to no more than, for example, 500,000 subscribers, the number of subscribers used to define small (i.e., “Tier III”) status in other proceedings. The Commission seeks comment on

the feasibility of such an alternative approach, and whether it offers any advantages over using the Tier I standard that is already incorporated generally throughout the section 20.19 hearing aid compatibility rules. Would a subscriber-based reporting threshold rely on 2001 subscriber counts, which are used in the Tier III definition used elsewhere in the Commission's rules, or instead be based on a provider's subscriber count in a given reporting year? Are there any other alternatives that the Commission should consider, such as expanding the exemption to all service providers or limiting the exemption to providers meeting the small size standard that is incorporated in the de minimis exception rule, i.e., providers with 1,500 or fewer employees?

10. Alternative Reporting Period or Certification. If the Commission determines that it would not serve the public interest to eliminate reporting requirements completely for Non-Tier I Service Providers, the Commission seeks comment on whether there are other ways to reduce the burdens associated with these requirements. Would it serve the public interest to require reporting less frequently? For instance, would requiring Non-Tier I Service Providers to file only once every three years instead of annually better balance the benefits of having such a reporting requirement against the burdens that it imposes? If so, what are the costs and benefits of revising the reporting requirements along these lines? Alternatively, rather than eliminating the reporting requirements or lengthening the interval between reports, would a better balance between the costs and benefits of the reporting requirements be achieved by requiring these service providers to submit a certification to the Commission, annually or otherwise, that they have met section 20.19 deployment benchmarks and other requirements, such as those on in-store testing and website postings? If so, should the certification form simply

contain a box to check that the requirements have been met, or should the certification form request additional information, such as the web address of the hearing aid compatibility information published on the service provider's website, if applicable, and whether the service provider has received inquiries or complaints about the availability of hearing aid compatible handsets? What are the costs and benefits of using a certification approach instead of the existing reporting approach? Which approach better serves the public interest?

11. Timing. Assuming that the Commission adopts a reporting exemption or modified reporting requirement, the Commission seeks comment on when such a change should become effective (e.g., as soon as is possible, after some period of time, or after some triggering event). Would it be in the public interest to have the change become effective as soon as possible, such that the Commission affords relief to Non-Tier I Service Providers at the soonest applicable filing deadline? Alternatively, would a better approach be to have the change become effective at some alternative point in time or after a certain trigger is met, (e.g., only after a Non-Tier I Service Provider meets either the 66 or 85 percent enhanced deployment benchmarks that the Commission adopted last year)? The Commission seeks commenters to explain how their proposed approach would best serve the public interest. The Commission also seeks comment on the costs and benefits of the various approaches.

12. Related Changes. The Commission seeks comment on whether any changes to other aspects of the section 20.19 hearing aid compatibility requirements would be necessary or appropriate to accommodate or reflect a reporting exemption or modified reporting requirement for Non-Tier I Service Providers. For example, the de

minimis exception rule, while otherwise exempting certain service providers from the requirements of the hearing aid compatibility rules, requires these providers to continue to submit annual FCC Form 655 reports. The Commission seeks comment on whether it makes sense to retain this requirement for service providers if only, e.g., Tier I carriers are required to submit annual FCC Form 655 reports. The Commission also seeks comment on any other changes to section 20.19 of the rules if the scope of the reporting requirement exemption depends on factors such as the number of subscribers. If the Commission adopts a reporting exemption or modified reporting requirement in this proceeding, what changes to the online FCC Form 655 or related instructions, if any, would be necessary or appropriate to implement the exemption?

13. Other Updates. Finally, in light of various changes in the marketplace since these reporting requirements were adopted, the Commission seeks comment on additional ways to streamline or update hearing aid compatibility reporting for all service providers, including Tier I carriers. Commenters should provide quantitative and qualitative cost and benefit analyses to support their proposals and to evaluate whether any aspects of the reporting requirements are unnecessary and outdated or could be streamlined or simplified to reduce burdens. Commenters should address, for example, whether reporting of handset offerings on a month-to-month basis and the level of details reported under our rules and the current FCC Form 655 continue to remain appropriate to protect consumers, or whether they can be modified to reduce burdens while preserving benefits to consumers. For example, should the Commission continue to require service providers to provide the model number and FCC ID directly associated with each model that they are reporting as compatible, together with the M and T rating that each such

model has been certified as achieving under the ANSI C63.19 standard? Should the reports continue to include the air interface(s) and frequency band(s) over which each reported handset model operates? Do such reports need to track compliance on a month-to-month basis in order to protect consumers? Commenters should consider all additional ways to streamline and improve the quality and usefulness of the Form 655 and whether there are alternative, less costly ways to ensure that current and future deployment benchmarks are being met. For instance, does or could the Commission obtain hearing aid compatibility information as part of other data collections, such as from the manufacturer applications for equipment certifications of handsets? If commenters find that the currently collected information is insufficient, they should explain why and how it can be improved, or whether this information can be combined with other sources to streamline the hearing aid compatibility reporting requirements. Further, can third party sources, such as GARI, replace some of the information the Commission requires? Commenters should provide specific information about what information collected in the Form 655 is duplicative to other available Commission or third party data. Any proposed changes should include an analysis of costs and benefits of current and proposed collections, and how the proposed changes will continue to preserve the benefits to consumers from our policy objectives.

II. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Analysis

14. As required by the Regulatory Flexibility Act of 1980, see 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities of the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA.

Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided above. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

1. Need for, and Objectives of, the Proposed Rules

15. For some time now, the Commission has required all covered device manufacturers and wireless service providers regardless of size to file annual reports on their offering of handsets that are compatible with hearing aids. Beginning in 2003, the Commission established a schedule requiring covered device manufacturers and wireless service providers to submit hearing aid compatibility reports every six months from 2004 through 2006, and then annually in 2007 and 2008. In 2008, the Commission extended annual reporting requirements on an open-ended basis for covered device manufacturers and wireless service providers in order to verify compliance with the hearing aid compatibility rules. The Commission required the same reporting content from all covered entities, regardless of size, including those that come under the de minimis exception in the hearing aid compatibility rules. These reporting requirements have helped the Commission fulfill its responsibilities in monitoring the status of access to hearing aid-compatible handsets, verifying compliance with the rules, and ensuring that the public has useful information on compatible handsets.

16. In 2008, the Wireless Telecommunications Bureau (WTB), pursuant to delegated authority, made electronic FCC Form 655 available for service providers and device manufacturers to use in submitting hearing aid compatibility status reports, and made its use mandatory beginning with the filing deadline for device manufacturers on

July 15, 2009.

17. In this document, the Commission seeks comment on whether and to what extent to exempt wireless service providers that are not Tier I carriers (Non-Tier I Service Providers) from annual FCC Form 655 reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. The Commission states that numerous parties, especially rural and small wireless service providers, have asserted for some time that preparing these annual reports is burdensome. The Commission seeks comment on the burdens of compliance with the Form 655 reporting requirements for Non-Tier I Service Providers, and whether the benefits of the reporting requirement as applied to these providers continues to outweigh the costs or burdens the reporting requirement places on them. Specifically, the Commission seeks comment on whether Non-Tier I Service Provider reporting is necessary to meet the Commission's objectives of providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment. With regard to monitoring the compliance of Non-Tier I Service Providers with the hearing aid compatibility rules, the Commission seeks comment on whether it should rely on the informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other hearing aid compatibility requirements. The Commission also seeks comment on whether eliminating or modifying the reporting requirement would permit Non-Tier I Service Providers to save costs without an appreciable negative impact on the Commission's enforcement objectives.

18. In this document, the Commission asks detailed questions to help it evaluate these issues, and asks parties to submit specific data in response to the Notice.

In addition, the Commission seeks comment on the scope of the exemption, when the exemption should begin to apply, and whether other changes to the hearing aid compatibility rules or the FCC Form 655 may be necessary or appropriate to implement or reflect the new exemption.

2. Legal Basis

19. The proposed actions for which comments have been sought in this document is authorized under sections 4(i), 303(r), and 710 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 610.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

20. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, the Commission provides a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

21. Small Businesses, Small Organizations, Small Governmental Jurisdictions. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of

small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

22. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with Internal Revenue Service (IRS).

23. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 37,132 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of

“small governmental jurisdictions.”

24. Radio and Television Broadcasting and Wireless Communications

Equipment Manufacturing. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment, including unlicensed devices. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, radio and television studio and broadcasting equipment. The Small Business Administration has established a size standard for this industry of 750 employees or less. U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry is small.

25. Part 15 Handset Manufacturers. The Commission has not developed a definition of small entities applicable to unlicensed communications handset manufacturers. The SBA category of Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is the closest NAICS code category for Part 15 Handset Manufacturers. The Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing industry is comprised of establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers,

cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.” The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, as firms having 750 or fewer employees. U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Thus, under this size standard, the majority of firms can be considered small.

26. Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.” The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers (except Satellite) is that a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

27. The Commission’s own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today. The Commission does not know how many of these

licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

28. Also included in this classification is Personal Radio Services, which provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under part 95 of the Commission's rules. These services include Citizen Band Radio Service ("CB"), General Mobile Radio Service ("GMRS"), Radio Control Radio Service ("R/C"), Family Radio Service ("FRS"), Wireless Medical Telemetry Service ("WMTS"), Medical Implant Communications Service ("MICS"), Low Power Radio Service ("LPRS"), and Multi-Use Radio Service ("MURS"). The Commission notes that many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base a more specific estimation of the number of small entities under an SBA definition that might be directly affected by our action.

29. Wireless Resellers. The SBA has not developed a small business size standard specifically for Wireless Resellers. The SBA category of Telecommunications Resellers is the closest NAICS code category for wireless resellers. The

Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 shows that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities.

4. Description of Projected Reporting, Recordkeeping, and other Compliance Requirements for Small Entities

30. The Commission is not proposing to impose any additional reporting or record keeping requirements. Rather, as discussed in the next section, the Commission is seeking comment on whether and to what extent it can reduce burdens on small wireless service providers by exempting them from hearing aid compatibility reporting requirements. Presently, these requirements include filing electronic FCC Form 655 on an annual basis. However, the Commission also asks whether it should require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

31. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

32. To assist the Commission's evaluation of the economic impact on small entities, as a result of actions that have been proposed in this Notice, and to better explore options and alternatives, the Commission has sought comment from the parties. In this Notice, the Commission has requested that commenters estimate the number of small entities that may be affected by any rule changes that might result from this Notice, to assist the Commission in analyzing the total number of potentially affected small entities. The Notice also seeks comment on whether and to what extent it should exempt wireless service providers that are not Tier I carriers from annual reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. Under the Commission's current hearing aid compatibility rules, all covered wireless service providers regardless of size must electronically file FCC Form 655 with the Commission in January of each year. While these reports have helped the Commission meet several of its objectives, the Commission is seeking comment on whether the burden of filing this form for small wireless service providers outweighs the benefits that the form provides the Commission and the public. The Commission is seeking comment, in part, on

whether and how this change would benefit small entities.

33. The Commission expects to more fully consider the economic impact on small entities, following the review of comments filed in response to this document. In seeking comment on whether to exempt non-nationwide wireless service providers from annual reporting requirements, the Commission considers several alternatives and steps it could take to implement its proposal. For example, the Commission invites comment on whether the hearing aid compatibility rules should incorporate an alternative definition or size standard on which a reporting exemption for small, rural, or regional service providers could be based. Specifically, the Commission asks whether the exemption could be based on a threshold number of subscribers. The Commission also seeks comment on whether to limit the new exemption to wireless service providers who meet the small size standard that is incorporated in the de minimis rule, *i.e.*, wireless service providers with 1500 or fewer employees. The Commission further seeks comment on the timing of when such an exemption should go into effect. Finally, the Commission asks whether to require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements. The Commission invites comment on ways in which the Commission can achieve its goals, but at the same time further reduce the burdens on small entities.

**6. Federal Rules that May Duplicate, Overlap, or Conflict with
the Proposed Rules**

34. None.

B. Initial Paperwork Reduction Act Analysis

35. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Other Procedural Matters

1. Ex Parte Rules – Permit-but-Disclose

36. The proceeding that the Notice of Proposed Rulemaking initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers

where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

III. ORDERING CLAUSES

37. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 303(r), and 710 of the Communications Act of 1934, as amended 47 U.S.C. 154(i), 303(r), and 610, that this Notice of Proposed Rulemaking IS hereby ADOPTED.

38. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before [thirty days after the date of publication in the Federal Register], and reply comments on or before [forty-five days after the date of publication in the Federal Register].

39. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 20

Communications common carriers, Communications equipment, Radio

FEDERAL COMMUNICATIONS COMMISSION

Katura Jackson,
Federal Register Liaison Officer
Office of the Secretary.

Proposed rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend part 20 of title 47 of the Code of Federal Regulations as follows:

PART 20 - - COMMERCIAL MOBILE SERVICES

1. The authority citation for Part 20 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a) 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, 615c, unless otherwise noted.

2. Section 20.19 is amended by revising paragraph (i)(1) to read as follows:

§ 20.19 Hearing aid-compatible mobile handsets.

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(i) Reporting requirements – (1) Reporting dates. Manufacturers shall submit reports on efforts toward compliance with the requirements of this section on an annual basis on July 15. Tier I carriers shall submit reports on an annual basis on January 15. Service providers that are not Tier I carriers are not required to submit reports. Information in the reports must be up-to-date as of the last day of the calendar month preceding the due date of the report.

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